

EXHIBIT 3

McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916
Phone: 804.775.1000
Fax: 804.775.1061
www.mcguirewoods.com

J. Brent Justus
Direct: 804.775.1018

McGUIREWOODS

bjustus@mcguirewoods.com
Fax: 804.698.2026

March 20, 2020

Massie P. Cooper
Troutman Sanders LLP
1001 Haxall Point
Richmond, VA 23219
massie.cooper@troutman.com

By Email

**RE: CSX Transportation, Inc. v. Norfolk Southern Railway Co., No. 2:18-cv-00530
(E.D. Va.)**

Dear Massie:

On behalf of CSX Transportation, Inc. (“CSXT”), I write in response to your letter to Rob McFarland dated March 10, 2020, in which you, on behalf of Norfolk Southern Railway Company (“NS”), challenged a number of CSXT’s claims of privilege over communications involving Steven Armbrust, in-house legal counsel for CSXT.

In your letter, which CSXT received at 8:13 p.m. on the night before Mr. Armbrust’s deposition, NS asked CSXT to review, downgrade, and reproduce more than 220 privileged documents before Mr. Armbrust’s deposition the next morning. It should go without saying that this request was unreasonable, particularly given that CSXT produced the vast majority of the documents at issue a month earlier. NS’s untimely challenge to CSXT’s privilege determinations is an insufficient basis for holding open Mr. Armbrust’s deposition.

CSXT has now had the opportunity to review the redacted documents cited in your March 10 letter and attached spreadsheet. CSXT has also reviewed the fully privileged documents cited on Page 3 of your letter, as well as other fully privileged documents that are similar to those exemplars. CSXT has confirmed that it appropriately redacted or withheld the majority of these documents as privileged; however, CSXT will reproduce some of the documents identified by NS, either with more limited redactions or as not privileged. CSXT will also provide a privilege log for redacted documents identified by NS, in accordance with the procedures outlined in the parties’ agreed ESI Order.

As you can imagine, CSXT’s review and production process has been complicated by the ongoing public health crisis. CSXT is working diligently to finalize and process the production

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and privilege log described above, and we anticipate providing these to NS by early next week. In light of the court's order granting the parties' joint motion to stay this action for 30 days due to the coronavirus, this timing should in no way prejudice NS. If you have any concerns, however, we would be happy to discuss at your convenience.

Best regards,

/s/ J. Brent Justus

J. Brent Justus

CC: Alan Wingfield (alan.wingfield@troutmansanders.com)
Michael Lacy, Esq. (michael.lacy@troutmansanders.com)
Elizabeth S. Flowers, Esq. (liz.flowers@troutmansanders.com)
John C. Lynch, Esq. (john.lynch@troutmansanders.com)
Kathleen M. Knudsen, Esq. (Kathleen.knudsen@troutman.com)
Monica McCarroll, Esq. (mmccarroll@redgravellp.com)
John R. Thornburgh II, Esq. (john.thornburgh@skadden.com)
Tara L. Reinhart, Esq. (john.thornburgh@skadden.com)
Thomas Gentry, Esq. (thomas.gentry@skadden.com)
Jim Chapman, Esq. (jchapman@cwm-law.com)
W. Ryan Snow, Esq. (wrsnow@cwm-law.com)
Darius K. Davenport, Esq. (ddavenport@cwm-law.com)
David C. Harnett, Esq. (dhartnett@cwm-law.com)
Rob McFarland, Esq. (rmcfarland@mcguirewoods.com)
Benjamin L. Hatch, Esq. (bhatch@mcguirewoods.com)
Jeanne E. Noonan, Esq. (jnoonan@mcguirewoods.com)
Ashley P. Peterson, Esq. (apeterson@mcguirewoods.com)
Stephanie N. Hunter, Paralegal (shunter@cwm-law.com)
Armond Joyner, Legal Assistant (ajoyner@cwm-law.com)